

C. C. HUGHES

IBLA 76-515

Decided September 22, 1976

Appeals from decisions of the Wyoming State Office, Bureau of Land Management, requiring execution of special stipulations as a condition precedent to the issuance of oil and gas leases pursuant to offers W-43251 through W-43259.

Affirmed.

1. Oil and Gas Leases: Stipulations

An applicant for an oil and gas lease may be required to accept stipulations designed for the protection of the land and its resources in the public interest as a condition precedent to issuance of a lease where the stipulation does not unreasonably interfere with the rights conferred by an oil and gas lease. A stipulation requiring lessee, at his own expense, to make an inventory of archeological and historical sites on those areas of the leased lands which he proposes to enter for purposes of exploration or drilling and to agree to reasonable conditions of use designed to protect any valuable sites or objects disclosed by the inventory is reasonable and will be upheld.

APPEARANCES: C. C. Hughes, pro se; Erol R. Benson, Esq., Office of the General Counsel, Department of Agriculture, Ogden, Utah.

OPINION BY ADMINISTRATIVE JUDGE RITVO

C. C. Hughes has appealed from a decision of the Wyoming State Office, Bureau of Land Management, dated January 30, 1976, requiring him to execute certain stipulations as a condition to the issuance of oil and gas leases pursuant to offers W-43251 through W-43259.

Appellant objects to that part of the stipulations requiring that an inventory of archeological, paleontological, and historical sites be made prior to entry upon the surface of the lands for exploration and drilling purposes. Appellant contends this requirement is irrelevant, impractical, and an obstacle to development of energy resources.

The case files disclose that the lands embraced in the various oil and gas lease offers are public domain withdrawn for national forest purposes as part of the Teton and Bridger National Forests. The Forest Service, United States Department of Agriculture, posed no objection to issuance of leases for the land subject to the condition that the appellant execute certain stipulations, including the following:

1. Lessee agrees not to enter upon the lease area or disturb the surface for exploration or drilling purposes until either:

(a) An inventory of archeological, paleontological, and historical sites is made by the surface management agency or its designated representative, or

(b) Lessee has made or caused to be made an inventory of all archeological, paleontological, and historical sites in those areas of the lease subject to development, occupancy or surface disturbance. The survey must be made by a qualified archeologist acceptable to the surface management agency and the results of this survey provided to the surface management agency. Costs of this survey will be borne by the lessee. After inventory by either lessee's archeologist or the surface management agency reasonable conditions of use will be prepared to protect the sites or salvage objects of antiquity in accordance with the Antiquities Act of June 8, 1906 (34 Stat. 225; 16 USC 431), and the Historical Sites Act of August 21, 1935 (49 Stat. 666; 16 USC 461-467). Costs of salvage of artifacts will be borne by the lessee and all objects of antiquity salvaged will remain the property of the U.S. Government.

These stipulations, which the BLM required the appellant to execute, are the subject of this appeal.

[1] In a recent case, W. E. Haley, 25 IBLA 311 (1976), the Board considered an appeal raising the same objections to the same stipulations. After a thorough discussion of the Department's

authority to impose such requirements and the circumstances in which this will be improved, it was concluded that:

An applicant for an oil and gas lease may be required to accept stipulations designed for the protection of the land and its resources in the public interest as a condition precedent to issuance of a lease where the stipulation does not unreasonably interfere with the rights conferred by an oil and gas lease. A stipulation requiring lessee, at his own expense, to make an inventory of archeological and historical sites on those areas of the leased lands which he proposes to enter for purposes of exploration or drilling and to agree to reasonable conditions of use designed to protect any valuable sites or objects disclosed by the inventory is reasonable and will be upheld.

Further, in Cecil A. Walker, 26 IBLA 71 (1976), almost identical stipulations were approved.

Therefore, the requirement that the appellant agree to these stipulations as a condition to the issuance of the leases was proper.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Martin Ritvo
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

